

Brief Exhibit

No. 30

1 IN THE UNITED STATES DISTRICT COURT

2 FOR THE DISTRICT OF NEVADA

3 UNITED STATES OF AMERICA,) Case No. 2:16-cr-00046-GMN-PAL
4 Plaintiff,)
5 vs.) Las Vegas, Nevada
6 CLIVEN D. BUNDY (1), RYAN) November 21, 2017
7 C. BUNDY (2), AMMON E. BUNDY) 8:24 a.m.
8 (3), and RYAN W. PAYNE (4),)
9 Defendants.) Day 10
-----)

10 TRANSCRIPT OF PROCEEDINGS

11 BEFORE THE HONORABLE GLORIA M. NAVARRO
12 UNITED STATES DISTRICT COURT CHIEF JUDGE, AND A JURY

13 APPEARANCES:

14 For the Government:

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25 Appearances continued on page 2.

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28 Proceedings reported by machine shorthand, transcript produced
29 by computer-aided transcription.

1 February of 2012. And the government believes that this report
2 was created in preparation for an impound operation in 2012 or
3 2013, definitely not 2014.

4 The 2014 report refers to the 2012 report. So, this
5 is the 2012 report. This 2012 OLES threat assessment mentions
6 an OIG report that would have had to have existed at the time,
7 otherwise you can't mention it. So, it's not the future
8 reports that we have already talked about in other hearings.

9 MR. MYHRE: No, Your Honor, those are separate and
10 apart. And I can -- I can address that as well.

11 THE COURT: Okay.

12 MR. MYHRE: And I will wait for Mr. Hill to finish.

13 THE COURT: Tell me what you know about this OIG
14 report.

15 MR. MYHRE: We are unaware of the existence of any
16 OIG report. The OIG database is as accessible to us as it is
17 to the defense or is as accessible to the defense as it is to
18 us. They can certainly search that database.

19 We are unaware of any OIG report that is referenced
20 in this threat assessment. That doesn't mean we won't continue
21 to look, but as I stand here today, I'm not -- we're not aware
22 of it.

23 With respect to some of the other representations, I
24 think there needs to be a little clarity brought to this.
25 First of all, to the extent the defense is saying that the BAU

1 supplement Miss Weksler's motion, so we can keep it --

2 MR. HILL: Yes, Your Honor. Of course.

3 THE COURT: -- on calendar. Let's see.

4 MR. MYHRE: And Your Honor, did you wish -- I have a
5 copy of the redacted version that was provided to defense, if
6 the Court wishes me to make this a court record at this point.

7 THE COURT: You can file it under seal if you'd like
8 to.

9 What is the OIG report that's mentioned in the OLES
10 report? Is it referring to a threat assessment or something?
11 It's not. It's referring to something else. Does it have any
12 keywords?

13 MR. MYHRE: I can read the relevant portion that
14 Mr. Hill is referring to, Your Honor. It says, "A US
15 Department of Interior, Office of Inspector General Report,
16 directed the BLM to enforce the federal district court order
17 requiring Bundy to remove his livestock from public lands."

18 And that OIG report -- whether this assessment got it
19 right, or that's urban legend, or if there is, in fact, an OIG
20 report, it -- I can represent we don't have an OIG report in
21 our possession directing the BLM to enforce a federal district
22 order requiring Bundy to remove his livestock.

23 And the OIG database is available to the defense. If
24 they wish to search it, they can search for it as well.

25 MS. WEKSLER: So -- Judge, so that the Court has some

1 of lying about.

2 I find it curious that two documents, that this --
3 that this BLM or that this OIG report was talked about at a
4 joint terrorism task force meeting, and now it's being talked
5 about in this threat assessment, it's obviously entering in to
6 people's calculus.

7 It's at the joint terrorism task force meeting, and
8 it's in this threat assessment. It's entering into people's
9 calculus, this OIG report.

10 MR. MYHRE: Your Honor, even if all that was --
11 existed, let's assume there was an OIG report that said, "Get
12 the cattle off the land. Get it off now." And let's assume
13 that someone just made up a threat assessment out of thin air,
14 and a thousand officers show up in Bunkerville. None of that
15 would provide an excuse, justification, or defense to the -- to
16 the charges.

17 With respect to the rebuttal of the allegations in
18 the indictment, the indictment says he sent out false --
19 basically, false messaging about being surrounded and with
20 snipers. And isolated -- I don't have the indictment in front
21 of me. I can get it. I can pull out the exact words.

22 But the government's theory of the case, nonetheless,
23 is going to be that Bundy was sending out false messaging to
24 the effect of he was isolated, that he was surrounded by
25 snipers who had laser beams on his chest ready to shoot him,

1 that he couldn't move and so forth.

2 That's going to be just a question of fact as to what
3 was going on on the ground. The threat assessment has nothing
4 to do with what was actually occurring on the ground between
5 the 5th of April and the 12th of April.

6 And we will present evidence that that was not true.
7 He was not surrounded. There were not snipers and so forth.
8 But that's got nothing to do with the threat assessment from
9 2012.

10 So, I understand -- you know, so, this is just a
11 shiny object that's, you know, being thrown around on the wall
12 here to totally distract us all from what the issue is that we
13 are here for.

14 MR. HILL: So, Judge, the overarching point -- and I
15 will reiterate again. This OIG report is obviously entering --
16 this is back in 2012 they are talking about it, and then again
17 weeks before the operation, they are talking about it again at
18 a joint terrorism task force.

19 The point is that the BLM had to justify why they had
20 not acted. Their answer is that the Bundys are dangerous. The
21 2014 operation that seems, in whole or in part, in line with
22 what Mr. Whipple's been scratching at, was not designed to
23 impound cattle, but to prove the Bundys' dangerousness by
24 provocation.

25 That is why the potential motive, which has been now